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ATTORNEY FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

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<p>LEO J. BARTLEY, Plaintiff, vs. UNITED STATES OF AMERICA, Defendant.</p>	<p>CV 10-08-H-DWM  <u>STIPULATION FOR COMPROMISE SETTLEMENT AND RELEASE</u></p>
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It is hereby stipulated by and between the undersigned plaintiffs (meaning any person, other than the defendant, signing this agreement, whether or not a party to this civil action), and the United States of America, by and through their respective attorneys as follows:

1. The parties do hereby agree to settle and compromise each and every claim of any kind, whether known or unknown, arising directly or indirectly from the acts or omissions that gave rise to the above-captioned action under the terms and conditions set forth in this Settlement Agreement.

2. The United States of America agrees to pay the sum of One Hundred Fifty Thousand Dollars (\$150,000), which sum shall be in full settlement and satisfaction of any and all claims, demands, rights, and causes of action of whatsoever kind and nature, arising from, and by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries, damage to property and the consequences thereof, resulting, and to result, from the same subject matter of this settlement, for which Plaintiffs or their guardians, heirs, executors, administrators or assigns, and each of them, now have or may hereafter acquire against the United States of America, its agents, servants, and employees.

3. Plaintiffs and their guardians, heirs, executors, administrators or assigns hereby agree to accept the sum set forth in this Stipulation of Compromise Settlement, in full settlement and satisfaction of any and all claims, demands, rights, and causes of action of whatsoever kind and

nature, including claims for wrongful death, arising from, and by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries, damage to property and the consequences thereof which they may have or hereafter acquire against the United States of America, its agents, servants and employees on account of the same subject matter that gave rise to the above-captioned action, including any future claim or lawsuit of any kind or type whatsoever whether known or unknown for compensatory or exemplary damages. Plaintiffs and their guardians, heirs, executors, administrators or assigns further agree to release, indemnify and hold harmless the United States of America, its agents, servants, and employees from and against any and all such causes of action, claims, liens, rights, or subrogated or contribution interests incident to or resulting from further litigation or the prosecution of claims by plaintiffs or their guardian, heirs, executors, administrators or assigns against any third party or against the United States.

4. This stipulation for compromise settlement is in no way intended to be, and should not be construed as an admission of liability or fault on the part of the United States, its agents, servants, or employees, and it is specifically denied that they are liable to the plaintiffs. This

settlement is entered into by all parties for the purpose of compromising disputed claims under the Federal Tort Claims Act and avoiding the expenses and risks of litigation.

5. It is also agreed, by and among the parties, that the respective parties will each bear their own costs, fees, and expenses and that any attorneys fees owed by the plaintiffs will be paid out of the settlement amount and not in addition thereto.

6. It is also understood by and among the parties that pursuant to Title 28, United States Code, Section 2678, attorneys fees for services rendered in connection with this action shall not exceed 25 per centum of the compromise settlement.

7. The persons signing this Settlement Agreement warrant and represent that they possess full authority to bind the persons on whose behalf they are signing to the terms of the settlement. In the event any plaintiff is a minor or a legally incompetent adult, the plaintiffs must obtain Court approval of the settlement at their expense. Plaintiffs agree to obtain such approval in a timely manner: time being of the essence. Plaintiffs further agree that the United States may void this settlement at its option in the event such approval is not obtained in a timely manner. In the event

plaintiffs fail to obtain such Court approval, the entire Stipulation for Compromise Settlement and Release and the compromise settlement are null and void.

8. Payment of the settlement amount will be made by government wire transfer as per the following:

- A. Payee Account Name: Buxbaum, Daue & Fitzpatrick IOLTA Trust Fund
- B. ABA Routing Number (9 digits): 292970825
- C. Payee Account Number: [REDACTED]
- D. Type of Account - Checking or Savings: Checking
- E. Financial Institution Name, City, State: Glacier Bank, Butte, MT

Plaintiffs' attorney agrees to distribute the settlement proceeds among the claimants and to obtain a dismissal of the above-captioned action with prejudice, with each party bearing its own fees, costs and expenses.

9. The parties agree that this Stipulation for Compromise Settlement and Release, including all the terms and conditions of this compromise settlement and any additional agreements relating thereto,

may be made public in their entirety, and the plaintiffs expressly consent to such release and disclosure pursuant to 5 U.S.C. § 552a(b).

DATED this 6<sup>th</sup> day of December, 2010.

MICHAEL W. COTTER  
United States Attorney

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